IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

THURSDAY, THE 16TH AUGUST 2007 / 25TH SRAVANA 1929

WP(C).No. 15185 of 2006(G)

OS.146/2001 of SUB COURT,KATTAPPANA
.....

PETITIONER:

KURIAN, S/O.JOSEPH, CHERUVEETTIL HOUSE,
DYMOCK KARA, PERIYAR VILLAGE.

BY ADV. SRI.T.A.UNNIKRISHNAN
SMT.RESHMI POULOSE

RESPONDENTS:

LAKSHMI, W/O.ANNAMALAI,
WALLARADY KARA, PERIYAR VILLAGE.

BY

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 16/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC NO. 15185/2006

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE ORDER DATED 15.2.2006 IN E.A. NO.169/2005 IN E.P. NO.3/2003 OF THE SUB JUDGE, KATTAPPANA.

/TRUE COPY/

P.A. TO JUDGE.

PIUS C. KURIAKOSE, J.

W.P.(C) NO. 15185 of 2006

Dated this the 16th day of August, 2007

JUDGMENT

This writ petition is remaining defective on the reason that service is not completed on the respondent decree holder. This court became inclined to grant stay only on condition that the petitioner remits Rs.25,000/- (Rupees .Twenty Five Thousand only) towards the decree debt within two months from 12.6.2006.

2. Sri.T.A.Unnikrishnan, the learned counsel for the petitioner is not in a position to say whether the above condition has been complied with. The ground which is prominently raised in the writ petition is that a portion of the property now proposed to be sold will be sufficient for discharging the decree debt. Since that is the only ground raised in this writ petition, I dispose of the writ petition issuing the following directions:

i). The Execution Court will verify whether the petitioner has complied with the condition imposed by this court on 12.6.2006 that within two months from that date a sum of Rs.25,000/- shall be paid by the petitioner. If, on such verification, it is seen that the condition has been complied with, then the Execution Court will hold up further

proceedings in execution for another four months from the date of verification.

ii). It is open to the petitioner to identify a purchaser for any portion of his property during that period who will be prepared to pay an amount equal to what is necessary for discharging the decree debt in full as price. Once such a purchaser is identified, the petitioner will file necessary application before the court below for permission to have a private sale to that prospective purchaser. Once such application is received, the court will pass appropriate orders on that application with notice to the respondent so as to ensure that the entire balance decree debt is paid to the decree holder. At any rate, the order of stay will not continue beyond four months of the day the court below conducts verification regarding the deposits made by the petitioner pursuant to this court's order. If on verification it is seen that condition imposed by this court has not been complied with, the court will be justified in continuing with the sale as initially proposed. In other words non compliance of the condition imposed by this court will mean dismissal of this writ petition without any relief to the petitioner.

PIUS C. KURIAKOSE,
JUDGE.

Dpk